

1st Reading 9/12/2023  
2<sup>nd</sup> Reading 9/12/2023

BILL NO. 23-37

ORDINANCE NO. 5391

AN ORDINANCE APPROVING A LETTER AGREEMENT WITH  
DIERBERGS CRESTWOOD CROSSING LLC RELATED TO THE  
REDEVELOPMENT AGREEMENT FOR THE CRESTWOOD PLAZA TAX  
INCREMENT FINANCING REDEVELOPMENT PLAN & PROJECT

---

WHEREAS, pursuant to Ordinance No. 4643, adopted by the Board of Aldermen on March 22, 2016, the Board of Aldermen approved the “Crestwood Plaza Tax Increment Financing Redevelopment Plan & Project” (the “Redevelopment Plan”) and the redevelopment project described therein (the “Redevelopment Project”) in accordance with the Real Property Tax Increment Allocation Redevelopment Act, Sections 99.800 to 99.865, RSMo; and

WHEREAS, in furtherance of the Redevelopment Plan, pursuant to Ordinance 4673 adopted by the Board of Aldermen on November 16, 2021, the City of Crestwood (the “City”) entered into a redevelopment agreement (the “Redevelopment Agreement”) with Dierbergs Crestwood Crossing LLC (the “Developer”) to implement a portion of the Redevelopment Plan and the Redevelopment Project; and

WHEREAS, the Developer has requested certain action on the part of the City relating to the Developer’s obligations under the Redevelopment Agreement regarding the property referred to as the “Calvert’s Property”; and

WHEREAS, the Board of Aldermen finds it to be in the best interest of the City to grant the Developer’s request.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF CRESTWOOD, MISSOURI AS FOLLOWS:

SECTION 1: The Board of Aldermen hereby authorizes the execution of the Letter Agreement between the City and the Developer in substantially the form as Exhibit A (the “Agreement”), attached hereto and incorporated herein.

SECTION 2: The Mayor is hereby authorized and directed to approve and execute the Agreement on behalf of the City and to take further action as may be reasonably necessary to carry out the intent and purposes of this Ordinance.

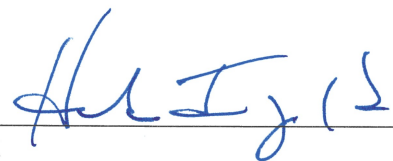
SECTION 3: The Mayor, City Administrator, City Attorney, and City Clerk are hereby authorized and directed to execute such documents and to take such other actions as may be reasonably necessary to ensure performance of the Agreement or otherwise carry out the intent of this Ordinance and the Agreement.

SECTION 4: This Ordinance shall be in full force and effect from and after its passage by the Board of Aldermen and its approval by the Mayor.

PASSED AND SIGNED this 12th day of September, 2023.

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk

APPROVED this 12th day of September, 2023.

  
\_\_\_\_\_  
Mayor

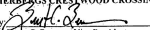
Developer and the City avoided a potentially lengthy and protracted condemnation proceeding. As a result, Developer is not able to demolish and remove such building until after October 30, 2024.

In light of the above-described circumstances, the Developer hereby requests that the City waive the precondition described in Section 5.1(b)(1)(iv) of the Redevelopment Agreement with respect to the Calvert's Property only. This waiver will allow for the prompt issuance of TIF Notes for Phase 1A, given that all other preconditions for the issuance of the TIF Notes for Phase 1A have been satisfied. The Developer further agrees that if the existing building on the Calvert's Property is not demolished and removed by May 1, 2025 (provided, that such date shall be automatically extended on a day-for-day basis to the extent that the current tenant of the Calvert's Property holds over in any respect past October 30, 2024, but only if the Developer is using commercially reasonable efforts to cause the removal of such tenant pursuant to Missouri law), interest on the TIF Notes for Phase 1A will cease to accrue until the demolition and removal of the building on the Calvert's Property is completed (i.e., as long as the demolition and removal is completed by May 1, 2025 (as such date may be extended as set forth above), interest will accrue uninterrupted from the date of issuance of the TIF Notes for Phase 1A). Except as specifically described above, all other terms of the Redevelopment Agreement shall remain in full force and effect.

If the foregoing terms are acceptable, please execute this Letter Agreement in the space provided below. Thank you for your time and attention to this matter.

Very truly yours,

**DIERBERGS CRESTWOOD CROSSING, LLC**

By   
Brent C. Beumer, Vice President

Acknowledged and agreed to as of September 13, 2023

**CITY OF CRESTWOOD, MISSOURI**

By   
Shipley, Mayor



  
City Clerk

## LETTER AGREEMENT

August 21, 2023

### VIA EMAIL

City of Crestwood  
1 Detjen Drive  
Crestwood, Missouri 63126  
Attention: Kristoffer Simpson  
ksimpson@cityofcrestwood.org

Lashly & Baer, P.C.  
714 Locust Street  
St. Louis, Missouri 63101  
Attention: Lisa O. Stump  
lostamp@lashlybaer.com

Gilmore & Bell, P.C.  
One Metropolitan Square  
211 N. Broadway, Suite 2000  
St. Louis, Missouri 63102  
Attention: Mark D. Grimm  
mrgimm@gilmorebell.com

**Re: City of Crestwood, Missouri, Redevelopment Agreement between the City of Crestwood, Missouri (the "City") and Dierbergs Crestwood Crossing LLC (the "Developer", together with the City the "Parties") dated as of January 25, 2022 and recorded January 31, 2022 at Book 25348 and Page 1046 (the "Redevelopment Agreement")**

Dear Ladies and Gentlemen:

The City and Developer are Parties to that certain Redevelopment Agreement referenced above. Capitalized terms used but not defined in this Letter Agreement shall have the meaning ascribed to them in the Redevelopment Agreement. The purpose of this Letter Agreement is to document a waiver of a precondition to the issuance of TIF Notes set forth in the Redevelopment Agreement related to the demolition and removal of the existing building located on the Calvert's Property.

Section 5.1(b)(1)(iv) of the Redevelopment Agreement requires, as a precondition to the issuance of TIF Notes for Phase 1A, that the Developer demolish and remove the buildings existing within the D3 Property (which includes the Calvert's Property due to the Developer's acquisition thereof). The Developer has not yet satisfied this precondition with respect to the building located on the Calvert's Property due to the circumstances described below. All other buildings in the D3 Property have been demolished and removed and all other preconditions for the issuance of TIF Notes for Phase 1A in the Redevelopment Agreement have been satisfied.

The Redevelopment Agreement required the Developer to use commercially reasonable efforts to acquire the Calvert's Property by private negotiation and, if necessary, permitted the use of eminent domain to cause the acquisition of the Calvert's Property. The Developer ultimately acquired the Calvert's Property by private acquisition at a purchase price that the Developer believed to be above market value. Additionally, the Calvert's Property, at the time of its acquisition, was (and currently is) leased to a tenant. Upon closing on the Calvert's Property, the Developer took an assignment of the existing building lease. The Developer then agreed to make certain commercially reasonable accommodations to the existing tenant to secure the tenant's eventual departure from the Calvert's Property. These accommodations included allowing the existing tenant to maintain its rights to occupy the building located on the Calvert's Property until October 30, 2024, which will provide time for the tenant to finish construction of a replacement facility. This course of action was pursued in close communication with the City. In doing so, the